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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JOANN RUVOLO, STEFAN B. EDLUND, and
DANIEL ALEXANDER FORD

Appeal 2007-4378
Application 09/500,439
Technology Center 3600

Decided: February 6, 2008

Before MURRIEL E. CRAWFORD, HUBERT C. LORIN, and
MICHAEL W. O'NEILL, *Administrative Patent Judges*.

O'NEILL, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Ruvolo, et al. (Appellants) seek our review under 35 U.S.C. § 134 of the final rejection of claims 1, 2, 4, 5-15, 17-26, and 28-37. We have jurisdiction under 35 U.S.C. § 6(b) (2002).

SUMMARY OF DECISION

We REVERSE.¹

THE INVENTION

The Appellants' invention is to a method and system for automatically selecting whom a person should keep in contact with and displays such selections to the person. (Specification 2:4-6.) The system comprises a user request, timer module, request processor, search/select module, user preferences, contact list, selected candidates, display module, and display. (Specification 4:16-18.) The system is either started manually or automatically and searches for contacts based on the user's preferences. (Specification 4:19-22.) In the process the user with the system establishes user preferences (Specification 8:19-20), stores a set of contacts (Specification 8:7-13), initiates a search and selection of possible contacts based on the criteria set forth in the user preferences (Specification 9:14-22), and as such displayed are the potential contacts retrieved from the search and selection process (Specification 10:7-17).

Claims 1, 2, 5, and 8, reproduced below, are representative of the subject matter on appeal.

1. A computer-based method of dynamically presenting potential contacts to a user comprising the following steps:

¹ Our decision will make reference to Appellants' Appeal Brief ("App. Br.," filed Nov. 1, 2004), Reply Brief ("Reply Br.," filed Mar. 28, 2005), the Examiner's Answer ("Answer," mailed Jan. 27, 2005), and the Final Rejection ("Final Rejection," mailed Jul. 2, 2004).

retaining user preferences, wherein said user preferences comprise any of, or a combination of: professional or personal contacts, preference on initiating the searching step, time-based references, select algorithms, or maximum number of candidates to select;
retaining a list of possible contacts, said list comprising at least identifying information and available images of said contacts;
automatically initiating searching said list of possible contacts to select at least one potential contact based on said user preferences,
retaining said at least one potential contact selected during said search, and
displaying to the user an available image or other identifying information of said at least one potential contact identified during said automatic searching to automatically remind the user to stay in touch with said at least one potential contact.

2. A computer-based method of dynamically presenting potential contacts to a user, as per claim 1, wherein said user preferences comprise either preferences input by the user or pre-selected default preferences.

5. A computer-based method of dynamically presenting potential contacts to a user, as per claim 1, wherein said automatic searching step is initiated automatically by said time-based reference.

8. A computer-based method of dynamically presenting potential contacts to a user, as per claim 1, wherein said selection of a potential contact in said search step is either random or based on a select algorithm.

THE PRIOR ART

The Examiner relies upon the following as evidence of unpatentability:

Kennedy	US 5,831,611	Nov. 3, 1998
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Xcontact

<http://web.archive.org/web/1999020304059/http://www.chez.com/svs/XcontactUS.html>, Jan 1, 1996.

THE REJECTIONS

The following rejections are before us for review:

1. Claims 1, 2, 4-15, 17-26, and 28-37 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Kennedy in view of Xcontact.

ISSUES

The issue is whether the Appellants have shown that the Examiner erred in rejecting claim 1, 2, 4-15, 17-26, and 28-37 as being unpatentable over Kennedy and Xcontact.² This issue turns on whether the Examiner established a prima facie case of obviousness over Kennedy and Xcontact.

FINDINGS OF FACT

We find that the following enumerated findings of fact are supported by at least a preponderance of the evidence. *Ethicon, Inc. v. Quigg*, 849

² Only those arguments actually made by Appellants have been considered in this decision. Arguments that Appellants could have made but chose not to make in the Briefs have not been considered and are deemed to be waived. See 37 C.F.R. § 41.37(c)(1)(vii) (2007).

F.2d 1422, 1427 (Fed. Cir. 1988) (explaining the general evidentiary standard for proceedings before the Office).

The scope and content of the prior art

1. Kennedy discloses a system for creating and executing business contact communication processes (such as prospective sales calls) by means of graphical user interface programs. (Kennedy, col. 1, ll. 11-13.) Kennedy explains businesses are now able to keep large amounts of information regarding their business contacts in their databases and through search and sort routines are able to retrieve specific requested portions of that information. (Kennedy, col. 1, ll. 33-37.) Kennedy mentions two functionalities of computerized business contact management systems. One category of functionality is the maintenance of the database in order to store and retrieve the contact information. (Kennedy, col. 1, ll. 38-48.) The other category of functionality mentioned is the maintenance of an appointment calendar, scheduling future appointments, and automatic follow-up of reminders. (Kennedy, col. 1, ll. 48-59.) Kennedy identifies the problems with these systems are (1) in the development of the communication protocols for business contacts (i.e., programming the system with the programming tools provided by the system) and (2) implementation of the programs developed with the existing database the business maintains containing its business contains. (Kennedy, col. 1, l. 60 to col. 2, l. 9.) As such, Kennedy discloses a graphical user interface for communication process (protocol) development and implementation. Kennedy's system contains two parts: a process editor and a process manager. The process editor provides a set of

graphically depicted events arranged upon a graphical user interface and graphical relation indicators for visually depicting the relationships between said graphically depicted events. (Kennedy, col. 2, ll. 32-38.) The process manager executes the set of events corresponding to the graphically depicted events that have been compiled into a particular communication protocol. (Kennedy, col. 2, ll. 39-46.) Kennedy's disclosure is divided into four sections: (1) describing the graphic user interface for the process editor, (2) descriptions of the data structures, (3) using the graphic user interface described in section one to build a communication process using the data structures described in section two, and (4) describing the execution (using the process manager) of a communication process built by using the graphical user interface found within the process editor. The first three sections are focused on the process editor while the fourth section is focused on the process manager. Starting in column 4 and ending in column 10 (Section 1), Kennedy describes the graphic user interface for the process editor that a programmer would use to build or modify a communication process or protocol for a business contact or contacts. Kennedy starting in column 11 and ending column 13, line 23 (Section two) describes the data structures associated with an event (e.g., letter generation, form generation, reminder, e-mail, dialog, phone call, question). Kennedy describes in column 13, line 24 through column 16, line 20 (Section 3) the process for graphically depicting a communication process to be implemented. Basically, the process a programmer uses is a drag-and-drop oriented approach to programming the system by selecting the graphical

representations of the desired events to occur in a particular order and fill in any associated data. Kennedy from column 16 to the beginning of the claims (Section 4) describes running processes programmed with the information within a business' database. As an example, Kennedy discloses a communication process that was programmed to generate two letters within a span of days followed by a telephone call to a selected prospect within the database.

2. Xcontact teaches adding an image of a point of contact within an electronic address and calendar book software program.

The level of skill in the art

3. Neither the Examiner nor Appellants have addressed the level of ordinary skill in the pertinent arts of communication process management. As such, we will therefore consider the cited prior art as representative of the level of ordinary skill in the art. *See Okajima v. Bourdeau*, 261 F.3d 1350, 1355 (Fed. Cir. 2001) (“[T]he absence of specific findings on the level of skill in the art does not give rise to reversible error ‘where the prior art itself reflects an appropriate level and a need for testimony is not shown.’”) (Quoting *Litton Indus. Prods., Inc. v. Solid State Sys. Corp.*, 755 F.2d 158, 163 (Fed. Cir. 1985)).

Secondary considerations

4. There is no evidence on record of secondary considerations of non-obviousness for our consideration.

ANALYSIS

We have carefully reviewed the prior art used in the rejections (see Finding of Facts 1 and 2) and the rejections on appeal (Answer, 4-6) in light of the arguments of the Appellants (App. Br. 4-10 and Reply Br., 2-8) and the Examiner (Answer, 7-11). As a result of this review, we have reached the conclusion that the applied prior art does not establish the prima facie case of obviousness of the claimed subject matter. The claims are directed to a process and system for initiating the maintenance of points of contacts. Kennedy is directed to the development of creating and executing business contact communication processes by way of a program that uses a graphical user interface and drag-and-drop method of building these processes with the graphical objects provided by the system. (Finding of Fact 1.) Xcontact is directed to an electronic address and calendar software program that has the capability of adding images to the contact. (Finding of Fact 2.) The disclosure of Xcontact cannot ameliorate the shortcomings of Kennedy. Likewise, Kennedy's disclosure cannot ameliorate the shortcomings of Xcontact. We fail to see where Kennedy discloses, teaches, or suggests a method and system that automatically searches through a list of points of contact, based on a set of user preferences, to which the user has not stayed in contact with and automatically generates a reminder along with an available image of a potential point of contact so as to remind the user to stay in contact with the potential point of contact. As such, we are constrained not to sustain the Examiner's rejections on appeal.

CONCLUSIONS OF LAW

The rejections of claims 1, 2, 4-15, 17-26, and 28-37 are not sustained.

DECISION

REVERSED

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